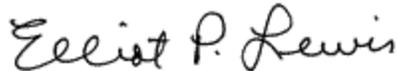


March 30, 2004

MEMORANDUM FOR: JOHN L. HENSHAW
Assistant Secretary for
Occupational Safety and Health



FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: Complaint on Susan Harwood Grant Award to
Solid Waste Association of North America
Report No. 05-04-003-10-001

An anonymous complaint stated that the Solid Waste Association of North America (SWANA) is a trade association that represents primarily local governments and, as such, most of the employees it represents are outside of the regulatory jurisdiction of the Occupational Safety and Health Act of 1970 (OSH Act). As a result, the complainant believes that the Occupational Safety and Health Administration (OSHA) should not have funded a grant to SWANA. Based on our audit results, we conclude that SWANA met all the requirements of eligibility to receive a Susan Harwood Institutional Competency Building grant.

Objective and Scope

We conducted an audit of SWANA to determine the merits of an allegation that it was ineligible to receive a Susan Harwood Institutional Competency Building grant.

To determine the merits of the allegation, we reviewed OSHA's Grant Application Instructions, SWANA's Grant Application, and supporting documentation for the Grant Application provided by SWANA. We also analyzed the SWANA membership universe. Fieldwork was performed at SWANA offices in Silver Spring, Maryland, March 25 through March 28, 2003. Because our objective was limited to determining SWANA's eligibility to receive an OSHA grant, we concluded that management controls were not significant to our objective. Accordingly, we did not assess management controls. Our audit was performed in accordance with *Government Auditing Standards*.

Results

To be eligible to apply for an Institutional Competency Building grant, organizations must be nonprofit; serve clients nationally or in multi-state areas; and provide safety and health training, education, and services to their clients. Additionally, the Susan Harwood

Training Grant Program Application Instructions prohibit spending grant funds for training workers or employers from workplaces not covered by the OSH Act. Section 3 of the OSH Act excludes public employers from OSHA protection in the definition of employer. However, Section 18 of the OSH Act allows states to assume responsibility for development and enforcement of occupational safety and health standards. Currently, 24 states and 2 US territories have approved plans under this provision. These “State Plan states” are required to include all employees of public agencies of the state and its political subdivisions. As such, both public and private employees in State Plan states are covered by the OSH Act. Therefore, only public workers in non-State Plan states are excluded from OSH Act coverage and, by extension, Susan Harwood training grant services.

SWANA submitted a proposal to OSHA under the Susan Harwood Institutional Competency Building program to develop a comprehensive onsite health and safety training curriculum for personnel – including managers, supervisors and workers – in the solid waste industry. Specifically, SWANA proposed to develop new onsite health and safety courses for solid waste personnel in the following areas:

- Municipal Solid Waste Collection Services;
- Material Recycling Facilities; and
- Solid Waste Transfer Stations.

In addition, SWANA proposed to develop revisions and updates to its existing training course for:

- Municipal Solid Waste Landfills.

According to the proposal, this training could have had the potential of impacting over 250,000 managers, supervisors, and/or workers. The proposal further stated that SWANA had more than 6,700 members, but did not identify the number of members who were within the jurisdiction of the OSH Act, and therefore eligible for services provided by the grant.

To recruit trainees during the grant period, SWANA proposed to provide the onsite training packages free of charge to employers who were SWANA members on a first-come first-serve basis. (SWANA currently charges \$400 for one of its onsite training packages.) Once the courses were developed, SWANA planned to advertise their availability to its members through its website, newsletter and other communication channels. With this approach, SWANA was confident that 50 onsite training packages would be distributed for each of the 4 training areas it planned to develop (collection, recycling, transfer, and disposal) during the grant period. SWANA assumed an average of 8 persons would be trained through each package, resulting in an estimated 1,600 persons trained during the grant. Once the grant was over, SWANA planned to continue to offer the courses on a fee basis to its 6,700 members, as well as non-member solid waste organizations.

On September 24, 2002, SWANA was awarded an Institutional Competency Building grant of \$237,277, with the grantee matching \$15,000. The grant period was September 30, 2002 through September 30, 2003. The purpose of the grant was to assist nonprofit organizations in expanding their safety and health training, education and related assistance capacity.

SWANA staff provided us with a membership roster by Chapter, which showed that on October 1, 2002, SWANA had more than 6,900 members. We calculated that SWANA had more than 3,000 members in State Plan states, where both public and private sector members are under the jurisdiction of the OSH Act. SWANA calculated that an additional 914 members worked in the private sector in non-State Plan states; these workers were also eligible for services.

Based on our audit, we conclude that SWANA was eligible to receive a Susan Harwood Institutional Competency Building grant because it is a nonprofit organization; serving clients in multi-state areas; and providing safety and health training, education, and services to their clients. More importantly, SWANA had nearly 4,000 members under the regulatory jurisdiction of the OSH Act to whom they could distribute the 200 training packets.

At the time of our fieldwork, SWANA had written only one of the training packets (Landfill Update) but had not implemented its free distribution of the packets. As a result, we were unable to determine if SWANA ensured that only eligible members were provided the training packets. Since there was the possibility that SWANA members not under the jurisdiction of the OSH Act could be served, and because SWANA's grant application did not address how they would distribute the packets, OSHA needs to ensure that SWANA served only members eligible under the OSH Act.

Recommendations

We recommend that, prior to closing the grant, OSHA determine if ineligible SWANA members were served. If a significant number of ineligible members received benefit from the grant, OSHA should make appropriate adjustment to the grantee's claimed costs.

We also recommend that OSHA develop procedures to ensure grant recipients serve only individuals who are eligible under the grant.

Agency Response

OSHA concurs with the recommendations. OSHA intends to determine the SWANA population that received benefits under the program and will consider appropriate cost adjustments deemed necessary by any significant controllable and inordinate participation. OSHA is committed to reviewing grant eligibility requirements and ensuring that the intended audience is properly identified. OSHA will develop

procedures to ensure that grant recipients serve individuals who are eligible under the grant regulations.

OIG Conclusion

Based on OSHA's response, we consider the recommendations resolved. However, the recommendations cannot be closed until OSHA provides evidence that the planned activities have been implemented.

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If you have any questions, please contact Charles M. Allberry, Regional Inspector General for Audit in Chicago at (312) 353-2416.

Attachment

cc: Robert Poogach

Agency Response to Draft Report

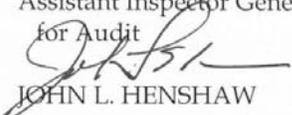
U.S. Department of Labor

Assistant Secretary for
Occupational Safety and Health
Washington, D.C. 20210



MAR 18 2004

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

FROM: 
JOHN L. HENSHAW

SUBJECT: Report No. 05-04-003-10-001
Complaint on Susan Harwood Grant Award to Solid
Waste Associations of North America

This memorandum is in response to your March 8, 2004 memorandum transmitting the Office of the Inspector General (OIG) draft Report Number 05-04-003-10-001, Complaint on Susan Harwood Grant Award to Solid Waste Associations of North America (SWANA).

We are pleased that the OIG's inquiry affirmed the legitimacy of this grant award and afforded us the opportunity to work with your staff in clarifying the grantee's activities. OSHA is in agreement with the two recommendations made by the OIG. With respect to the recommendation concerning the possibility that "ineligible" SWANA members might have been served under the grant, OSHA intends to determine the total student population that received benefits under the program. In line with your recommendation, the agency will consider appropriate cost adjustments deemed necessary by any significant controllable and inordinate participation.

OSHA also agrees with the OIG's second recommendation regarding grant eligibility. As OSHA expands its compliance assistance activities, the agency is committed to reviewing grant eligibility requirements and ensuring that the intended audience is properly identified. OSHA will then develop procedures to ensure that grant recipients serve individuals who are eligible under the grant regulations.

We appreciate the opportunity to comment on the draft. If you have any questions about this response, please coordinate them through Robert Poogach at (202) 693-2407.